

S/N 09/670,791



01-12-04

2876  
PATENT

Confirmation No. 6735

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Fernandez, et al.	Examiner:	Sajous, Wesner
Serial No.:	09/670,791	Group Art Unit:	2676
Filed:	September 27, 2000	Docket No.:	MS154592.2/40062.125USU1
Title:	APPLICATION PROGRAMMING INTERFACE FOR CHANGING THE VISUAL STYLE		

**CERTIFICATE UNDER 37 CFR 1.10**

'Express Mail' mailing label number: EV199955848US

Date of Deposit: January 9, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service 'Express Mail Post Office To Addressee' service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By:

Mary C. Notter

**PETITION TO WITHDRAW A HOLDING OF ABANDONMENT**

To Commissioner:

This is a petition to withdraw a holding of abandonment for application serial number 09/670,791, as indicated in a Notice of Abandonment mailed on December 17, 2003. Because this petition is filed within two months of the mailing date of the Notice of Abandonment, this petition is timely under 37 CFR 1.181(f) and should be considered. Under 37 CFR 1.181(a)(3), this petition is taken to invoke the supervisory authority of the Commissioner under appropriate circumstances.

The circumstances involve a holding of abandonment based on an alleged failure to timely file proper reply to the Office letter mailed on 29 January 2003 in the above noted case. A reply was filed on 29 April 2003 and is verified by an Express Mail receipt and postcard which has been stamped by OIPE for such date.

**Statement of Facts** (37 CFR 1.181(b))

(1) A Non-Final Office Action was mailed by the U.S. Patent and Trademark Office ("USPTO") on January 29, 2003.

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# **Attachment A**

(2) An Amendment in reply to the January 29, 2003 Office Action was filed via Express Mail on April 29, 2003, along with a self-addressed, stamped return postcard. A copy of this Amendment is provided in Attachment A.

(3) The USPTO stamped and mailed the originally submitted return postcard, thus indicating that the original Amendment was received, in fact, by the USPTO on April 29, 2003. A copy of the postcard as received is provided in Attachment B.

(4) Per 37 CFR 1.181(b), the undersigned attorney declares that such statement of the facts and representations of exhibits accompanying this petition are substantially correct and are adequate supporting proof regarding the truth of the facts as asserted.

It is Applicants' contention that the Amendment to the Office Action dated January 29, 2003 was transmitted in a timely fashion to the USPTO and was, in fact, received by the USPTO. Consistent with the Manual for Patent Examining Procedure (MPEP) § 711.03(c), subsection I, Applicants contend that the application is not in fact abandoned. Therefore, Applicants submit that granting this petition requesting withdrawal of the holding of abandonment is the appropriate course of action.

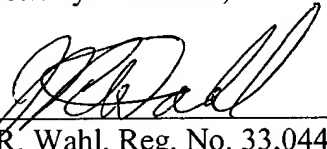
If there are any deficiencies associated with this petition, it is respectfully requested that Applicants be immediately notified so that an appropriate response may be submitted by the Applicants within the time period set forth in 37 CFR §1.181(f).

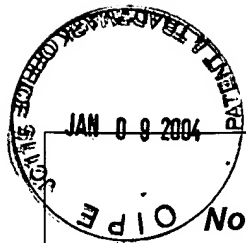
In accordance with MPEP § 711.03(c), subsection I, it is believed that this petition does not require a fee. However, in the event that a fee is required, the Commissioner is hereby authorized to charge any such fees to deposit account number 13-2725.

Respectfully submitted,

Date



  
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## Notice of Abandonment

Application No.

09/670,791

Examiner

Wesner Sajous

Applicant(s)

FERNANDEZ ET AL.

Art Unit

2676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 29 January 2003.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

The Examiner attempted to confirm the status of this application from Mr. Scott Strohn, but the attempt was uncessful. Mr. Scott stated that the "power of attorney" to him in this application has been revoked by the Applicant. He tried to reach the current agent working in this application, but the person could not be reached.

*Matthew C. Bella*

MATTHEW C. BELLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

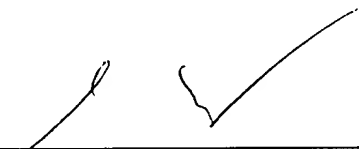
component library that uses a theme manager to render theme-aware graphical components that is also not disclosed by Johnston. Therefore, the Applicants believe that the Examiner should find claims 40-42 allowable.

In light of the foregoing remarks, it is believed that the application is in condition for allowance and thus prompt allowance is respectfully solicited. Should the Examiner have any remaining questions, he is encouraged to contact the undersigned attorney at the telephone number below to expeditiously resolve such concerns. Please charge any additional fees or credit any overpayment to Deposit Account No. 13-2725.

Respectfully submitted,

9/29/03  
Date



  
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<b>FROM: (PLEASE PRINT)</b> PHONE 303 357 1570  MERCHANT & SOULD 1050 17TH ST STE 1400 INDEPENDENT PLAZA DENVER CO 80265-2075  40062-125USU1			<b>TO: (PLEASE PRINT)</b> PHONE _____  Commissioner for Patents <del>Washington, DC 20540</del> P.O. BOX 1450 Alexandria, VA 22313-1450		
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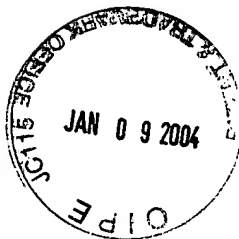
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Receipt is hereby acknowledged for the following in the U.S. Patent and Trademark Office:

In re Application of: Roland L. Fernandez et al.

For: APPLICATION PROGRAMMING INTERFACE FOR CHANGING THE VISUAL STYLE

Docket No.: MS154592.2/40062.125USU1

Serial No.: 09/670,791

Filed: September 27, 2000

Express Mail No. EV168788028US

Date Mailed: April 29, 2003

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Amendment
- ☒ Check in the amount of \$138.00 for additional claims fee
- ☒ Return postcard

Patent

GCLewis/mcn

# **Attachment B**